

REMARKS/ARGUMENTS

The Office Action mailed June 15, 2005, has been reviewed. Claims 1-35 were rejected under the judicially created doctrine of obviousness-type double patenting. Claims 31 and 34 were rejected under 35 U.S.C. Section 112, second paragraph. Claims 27-29 and 32-33 were rejected under 35 U.S.C. Section 102(b).

Claims 30 and 35 were objected to as being dependent upon a rejected base claims. However, the Examiner kindly noted that claims 30 and 35 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Similarly, the Examiner also kindly noted that claims 31 and 34 would be allowable if rewritten to overcome the rejections under 35 U.S.C. Section 112, second paragraph, and included all of the limitations of the base claim and any intervening claim.

Applicants have provided herewith their amendments to the claims. Applicants respectfully traverse the above-referenced rejections, to the extent that such rejections may apply to the amended claims presented herewith. Applicants respectfully request reconsideration of the above-referenced rejections in view of the amended claims and remarks provided herewith.

The Amended Claims

Independent claim 27 has been amended to include all of the limitations of allowable dependent claim 30, and intervening claim 28. Dependent claim 29 has been amended to depend directly from independent claim 27.

In addition, with the amendment to claim 27, claim 31 now has antecedent basis for the terms "the slide" and "the pivot arms", therefore, no amendment has been made to dependent claim 30.

Dependent claim 35 has been re-written as an independent claim by including all of the limitations of original independent claim 27, from which claim 35 directly depends. Dependent claim 34 has been amended to depend from claim 33, which provides antecedent basis for a first and second axis. Claims 28 and 30 have been cancelled.

It is respectfully submitted that all amendments are properly made, therefore it is respectfully requested that all amended claims be entered and considered.

Applicants' Response to the Double Patenting Rejection

Claims 1-35 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,629,667 to Tramontina (hereinafter "Tramontina"). Applicants respectfully traverse the rejection, to the extent that such rejection may apply to the present claims in view of the amendments provided herewith.

The independent claims (1, 13 and 16) each require the Tramontina dispenser to have a removable orifice plate. Further, the removable orifice plate of Tramontina does not disclose, teach or suggest an adjustable orifice, which is configured to alter a size of a slot. There is no teaching in Tramontina of a base plate which carries a movable slide, which comprises a portion of the adjustable orifice. Further, there is no disclosure, teaching or suggestion of a pair of spaced-apart pivot arms which are pivotably coupled to the slide, which also provide at least a portion of the adjustable orifice. In direct contrast, independent claims 1, 17, 27 and 35 specify such an adjustable orifice.

Only in hindsight, with the teaching of the present invention in hand, would one of ordinary skill in the art have such a disclosure, teaching and/or suggestion of the adjustable orifice of the present invention. And such hindsight is prohibited.

Accordingly, for the reasons stated, Applicants respectfully submit that the rejection of claims 1-35 under the judicially created doctrine of obviousness-type double patenting should be withdrawn.

Applicants' Response to the 35 U.S.C. Section 112 Rejection

Claims 31 and 34 were rejected under 35 U.S.C. Section 112, second paragraph, for being indefinite. Applicants respectfully traverse the rejections, to the extent that such rejections may apply to the presently presented claims.

Specifically, the term "the slide" and "the pivot arms" was deemed to have no antecedent basis in dependent claim 31. Dependent claim 34 described a third axis without describing a first and second axis.

As noted above, claim 31 now has antecedent basis which has been provided via amendment of independent claim 27. Dependent claim 34 has been amended to depend from claim 33, which describes a first and second axis.

In view of the amendments to the referenced claims, Applicants respectfully submit that the rejection of claims 31 and 34 under 35 U.S.C. Section 112, second paragraph should be rescinded.

Applicants' Response to the 35 U.S.C. Section 102(b) Rejections

Claims 27-29 and 32-33 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Tramontina, U.S. Pat. No. 6,267,321 (hereinafter "Tramontina"). Applicants respectfully traverse the rejections, to the extent that such rejections may apply to the present claims in view of the amendments provided herewith.

Claims 27-29 and 32-33 now depend, directly or indirectly, from amended independent claim 27, which includes all of the limitations of allowable claim 30 and intervening claim 28. Accordingly, since claims 27-29 and 32-33 depend, directly or indirectly, from amended independent claim 27, and therefore include all of the limitations of amended independent claim 27, it is respectfully submitted that the 35 U.S.C. Section 102(b) rejections of the referenced pending dependent claims be withdrawn.

Conclusion

Applicants respectfully submit that all pending claims are now in a condition for allowance. Favorable action is respectfully solicited.

Applicants' attorney would welcome an opportunity to discuss any portion of this submission with the Examiner; the Examiner is therefore encouraged to telephone the undersigned to resolve any remaining issues to pass this application to allowance. The undersigned may be reached at 770-587-8653.

Please charge any prosecutorial fees which are due to Kimberly-Clark
Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

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